



# Public Notice

<b>U.S. Army Corps Of Engineers Galveston District</b>	Permit Application No: _____	22658(01)
	Date Issued: _____	1 March 2004
	Comments Due: _____	31 March 2004

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**U.S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT  
AND  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

**PURPOSE OF PUBLIC NOTICE:** To inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in this process.

**AUTHORITY:** This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act.

**APPLICANT:** Velasco Drainage District  
P.O. Box 7  
Clute, Texas 77531-0007

**AGENT:** Berg Oliver Associates, Inc.  
14701 St. Mary's Lane, Suite 400  
Houston, Texas 77079-2914  
Telephone: 281-589-0898  
POC: Ms. Susan Alford or Mr. Clay Lawson

**LOCATION:** The project is located in Moller Ditch, southeast of County Road (CR) 226 and east of CR 523 and between Little Slough and Big Slough, in southern Brazoria County, Texas. Moller Ditch is the name for the previously improved portion (west end) of Coon Bayou. Moller Ditch/Coon Bayou flows into Bastrop Bayou. The project can be located on the U.S.G.S. quadrangle map entitled: Oyster Creek, Texas. The approximate UTM Coordinates for the project are listed below:

Start of project: Zone 15; Easting: 270296; Northing: 3217895.  
End of project: Zone 15; Easting: 274522; Northing: 3218499.

**PROJECT DESCRIPTION:** The applicant proposes to deposit 0.28 acres of permanent fill and 3.54 acres of temporary fill into adjacent wetlands in the process of upgrading an existing drainage ditch. The upgrades are for the purpose of improving drainage for residential areas located to the northwest that are subject to flooding. The proposed work would also result in secondary impacts to 30.08 acres of wetlands as a result of the excavation of approximately 138,974 cubic yards during the widening of the existing ditch and the creation of a new ditch. The existing channel has silted in and narrowed over time and now allows only 8 inches of clearance through the existing 24-inch culverts. The applicant proposes to replace the existing culverts with five low water crossings constructed of concrete paving. The proposed low water crossings would require a total of 0.12 acres of fill in the form of concrete paving. These crossings would allow landowners located adjacent to the ditch, access to their property, which lies on both sides of the ditch.

The replacement of the existing culverts, located at station 128+30 within the existing Coon Bayou, would require 0.01 acres of fill. The applicant proposes to replace the two existing 36-inch by 21.5-foot steel pipes at each location with two 36-inch by 20-foot concrete pipes. The proposed replacement of these pipes, together with preservation of the downstream configuration of Coon Bayou, would result in no significant change to the hydrology in the tidal areas in the vicinity. Wetlands bypassed by the proposed ditch would remain fully functional. The path of surface water flow is generally from the high banks along Little Slough to the north and Big Slough to the south, toward the existing meander. A plan view outlining flow patterns has been included in the plans.

In determining the appropriate pipe sizes, the drainage area was divided into drainage sub-areas. Watershed parameters were assigned to each sub-area (in accordance with the methodology in the Brazoria County Drainage Manual) for calculating TC and R-values for the Modified Clark's hydrograph. These parameters were then input into the U.S. Army Corps of Engineer's HEC-HMS program for computing flood hydrographs. Those analyses concluded that the proposed pipe sizes would be sufficient.

The applicant also proposes to construct an outfall structure with associated flap gates and riprap at the eastern end of the existing ditch. The outfall structure would require a total of 0.15 acres of fill in the form of 0.13 acres of riprap and 0.02 acres of culverts with flap gates. The purpose of the flap gate is two-fold. First, it would prevent the normal flood tide from flowing up the newly excavated channel into the freshwater regime and allow this flow to continue its current course up Coon Bayou, thereby preserving the existing brackish habitat. Second, the ebb tide would create a head differential that would aid in removal of residual storm water following a rainfall event. The water would only flow through the flap gate in the downstream direction. The design flow depth of the channel near the flap gate structure is approximately 4 feet deep. The proposed 4:1 side slopes in the flap gate region would be flat enough to maintain grass slopes by mowing and should be sufficient as erosion control without the use of riprap along the slopes. The applicant would place the 0.13 acres of proposed riprap at the downstream side of the flap gates to disperse energy in a storm event and prevent erosion of the wetlands located farther downstream.

Additionally, a proposed 0.02 acre borrow pit would be located approximately 20 feet north of the existing 30-foot-wide Moller Ditch, for the purpose of obtaining temporary fill for construction. The borrow pit and temporary fill would be restored to pre-construction conditions upon completion of the proposed project. The applicant would utilize best management practices during construction to ensure that erosion is minimized. Items such as silt fencing would be placed where needed to prevent sediment loading of nearby watercourses. Topsoil and vegetation would be stripped, stockpiled, and replaced on the slopes of the channel.

To compensate for wetland impacts the applicant would remove Chinese tallow trees along the entire project Right-of-Way (ROW) and then monitor and maintain the cleared ROW for a 5-year period. The applicant also proposes to create 6.8 acres of wetland habitat and enhance 10.8 acres of existing wetlands that have been overwhelmed by invading non-native species. This wetland creation/enhancement area would be contained within a 27.9-acre tract. The remainder of the tract (10.3 acres) would be uplands. The proposed mitigation site is located north of the proposed channel project between station 225+00 and 235+00, and commences northward toward Little Slough. The location of this proposed creation/enhancement area is also located adjacent to the existing landfill and would aid in the water quality of the area. The U.S. Army Corps of Engineers verified the applicant's wetland delineation (D-13550/01)) by letter dated 14 July 2003.

**The applicant's plans are enclosed in 15 project plan sheets and 6 mitigation plan sheets for a total of 21 sheets. Project location maps and general development plan in 5 sheets are attached; the remainder of the detailed 21 project and mitigation sheets are available on the USACE Website at [www.swg.usace.army.mil/reg](http://www.swg.usace.army.mil/reg). You may obtain a hardcopy of the project plans upon written request to the Project Manager cited on page 6 of this notice.**

**NOTES:** This public notice is being issued based on information furnished by the applicant. This information has not been verified.

A preliminary review of this application indicates that an Environmental Impact Statement (EIS) is not required. Since permit assessment is a continuing process, this preliminary determination of EIS requirement will be changed if data or information brought forth in the coordination process is of a significant nature.

Our evaluation will also follow the guidelines published by the U.S. Environmental Protection Agency pursuant to Section 404 (b)(1) of the Clean Water Act (CWA).

**OTHER AGENCY AUTHORIZATIONS:** Texas Coastal Zone consistency certification is required. The applicant has stated that the project is consistent with the Texas Coastal Management Program goals and policies and will be conducted in a manner consistent with said Program.

**STATE WATER QUALITY CERTIFICATION:** This project would result in a direct impact of greater than three acres of waters of the state or 1500 linear feet of streams (or a combination of the two is above the threshold), and as such would not fulfill Tier I criteria for the project. Therefore, Texas Commission on Environmental Quality (TCEQ) certification is required. Concurrent with U.S. Army Corps of Engineers (Corps) processing of this application, the TCEQ is reviewing this application under Section 401 of the CWA and in accordance with Title 30, Texas Administrative Code Section 279.1-13 to determine if the work would comply with State water quality standards. By virtue of an agreement between the Corps and the TCEQ, this public notice is also issued for the purpose of advising all known interested persons that there is pending before the TCEQ a decision on water quality certification under such act. Any comments concerning this application may be submitted to the Texas Commission on Environmental Quality, 401 Coordinator, MSC-150, P.O. Box 13087, Austin, Texas 78711-3087. The public comment period extends 30 days from the date of publication of this notice. A copy of the public notice with a description of work is made available for review in the TCEQ's Austin office. The complete application may be reviewed in the Corps office. The TCEQ may conduct a public hearing to consider all comments concerning water quality if requested in writing. A request for a public hearing must contain the following information: the name, mailing address, application number, or other recognizable reference to the application; a brief description of the interest of the requester, or of persons represented by the requester; and a brief description of how the application, if granted, would adversely affect such interest.

**NATIONAL REGISTER OF HISTORIC PLACES:** The staff archaeologist has reviewed the latest published version of the National Register of Historic Places, lists of properties determined eligible, and other sources of information. The following is current knowledge of the presence or absence of historic properties and the effects of the undertaking upon these properties:

The proposed project was investigated under Texas Antiquities Permit #2667 in 2001, and is discussed in the report entitled "Archaeological Survey of the Proposed Moeller Ditch Widening Project, Brazoria County, Texas" by Moore Archaeological Consulting of Houston. No cultural resources were encountered during the survey.

**THREATENED AND ENDANGERED SPECIES:** Preliminary indications are that no known threatened and/or endangered species or their critical habitat will be affected by the proposed work.

**ESSENTIAL FISH HABITAT:** This notice initiates the Essential Fish Habitat consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. Our initial determination is that the proposed action would not have a substantial adverse impact on Essential Fish Habitat or federally managed fisheries in the Gulf of Mexico. Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the National Marine Fisheries Service.

**PUBLIC INTEREST REVIEW FACTORS:** This application will be reviewed in accordance with 33 CFR 320-330, the Regulatory Programs of the Corps of Engineers, and other pertinent laws, regulations and executive orders. The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors, which may be relevant to the proposal, will be considered: among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs and, in general, the needs and welfare of the people.

**SOLICITATION OF COMMENTS:** The Corps of Engineers is soliciting comments from the public, Federal, State, and local agencies and officials, Indian tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Impact Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

This public notice is being distributed to all known interested persons in order to assist in developing facts upon which a decision by the Corps of Engineers may be based. For accuracy and completeness of the record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition.

**PUBLIC HEARING:** Prior to the close of the comment period any person may make a written request for a public hearing setting forth the particular reasons for the request. The District Engineer will determine whether the issues are substantial and should be considered in the permit decision. If a public hearing is warranted, all known interested persons will be notified of the time, date, and location.

**CLOSE OF COMMENT PERIOD:** All comments pertaining to this Public Notice must reach this office on or before **31 March 2004**. Extensions of the comment period may be granted for valid reasons provided a written request is received by the limiting date. **If no comments are received by that date, it will be considered that there are no objections**. Comments and requests for additional information should be submitted to:

T. Cheryl Jaynes  
Regulatory Branch, CESWG-PE-RE  
U.S. Army Corps of Engineers  
P.O. Box 1229  
Galveston, Texas 77553-1229  
409-766-3804 Phone  
409-766-3931 Fax

DISTRICT ENGINEER  
GALVESTON DISTRICT  
CORPS OF ENGINEERS